

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|---------------------|---|--------------|
| EDWIN HARRIS, | : | CIVIL ACTION |
| | : | NO. 07-4300 |
| Plaintiff, | : | |
| | : | |
| v. | : | |
| | : | |
| | : | |
| MICHAEL ASTRUE, | : | |
| Commissioner of the | : | |
| Social Security | : | |
| Administration, | : | |
| | : | |
| Defendant. | : | |

ORDER

AND NOW, this **24th** day of **September 2008**, upon consideration of the Report and Recommendation filed by Magistrate Judge Carol Sandra Moore Wells (doc. no. 13)¹ and the cross motions for summary judgment filed by the parties (doc. nos. 7, 10, and 12), it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. The Plaintiff's motion for summary judgment (doc. no. 7) is **GRANTED** in part and **DENIED** in part. It is **DENIED** to the extent that it: (a) alleges the ALJ erred in failing to obtain an expert to complete a "Psychiatric Review Technique;" and (b) challenges the ALJ's RFC determination. It is **GRANTED** on all other grounds.

¹ The Commissioner did not file Objections to the Report and Recommendation.

3. The Commissioner's motion for summary judgment (doc. no. 10) is **DENIED**; and
4. The case is **REMANDED** to the Commissioner in accordance with the fourth sentence of 42 U.S.C. §405(g) for further proceedings consistent with this order.²

AND IT IS SO ORDERED.

S/Eduardo C. Robreno
EDUARDO C. ROBRENO, J.

² Specifically, upon remand, the ALJ should: (a) re-evaluate Plaintiff's physical limitations without regard to Dr. Joel D. Pomerantz's findings; (b) re-evaluate Plaintiff's credibility concerning his complaints of pain; (c) re-evaluate the findings of Plaintiff's treating psychiatrist, Dr. Clarence Verdell, and re-consider whether Plaintiff meets Listed Impairment 12.04; (d) explicitly address how Plaintiff's low GAF scores impact his RFC during the closed period; and (e) pose a hypothetical question to the vocational expert which explicitly includes Plaintiff's deficiency in concentration, persistence, and pace.